

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

**PROTOTYPE PRODUCTIONS, INC., a
Maryland corporation, and PROTOTYPE
PRODUCTIONS INCORPORATED
VENTURES TWO, LLC, a Delaware limited
liability company,**

Plaintiffs,

v.

RESET, INC., a California corporation,

Defendant.

Civil Action No. 2:11cv196 RAJ-FBS

RESET, INC.'S MOTION TO DISMISS OR TRANSFER

Defendant Reset, Inc. ("Reset") hereby respectfully moves this Court for an order dismissing this case pursuant to Fed.R.Civ.P. 12(b)(2) and/or 12(b)(3), or, in the alternative transferring this case to the Central District of California pursuant to 28 U.S.C. § 1406(a) or § 1404(a).

As set forth in greater detail in the supporting brief submitted concurrently herewith, dismissal or transfer is warranted in this case because:

- (1) Reset is not within the reach of Virginia's long-arm statute;
- (2) Reset does not have sufficient contacts with Virginia to support either general or specific personal jurisdiction, particularly where, as here, none of Reset's extremely attenuated contacts with Virginia have any connection to the cause of action in this case;
- (3) Because this Court lacks personal jurisdiction over Reset, venue is likewise improper;

- (4) Because this Court lacks personal jurisdiction over Reset, and venue is improper, the Court should dismiss the case, or transfer it pursuant to 28 U.S.C. § 1406(a);
- (5) Even if Reset is subject to personal jurisdiction in this Court, the evidence favors a transfer to the Central District of California, which is the locus of the allegedly infringing activity, and a more convenient location for non-party witnesses.

For these reasons, as well as those set forth in the brief and supporting declarations filed herewith, Reset respectfully requests that the Court grant its motion to dismiss or transfer. Reset requests oral argument on this motion at the Court's earliest convenience.

RESET, INC.

By Counsel:

s/Robert E. Scully, Jr.
Robert E. Scully, Jr. (VSB No. 19218)
Emily Harwood Smith (VSB No. 65527)
Counsel for Defendant Reset, Inc.
Stites & Harbison PLLC
1199 North Fairfax Street, Suite 900
Alexandria, Virginia 22314
Telephone: (703) 739-4900
Fax: (703) 739-9577
rscully@stites.com

Of Counsel:

Daniel M. Cislo
Mark D. Nielsen
Cislo & Thomas LLP
1333 2nd Street, Suite 500
Santa Monica, CA 90401-4110
Telephone: (310) 451-0647
Fax: (310) 394-4477
dan@cislo.com
mnielsen@cislo.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of May, 2011, a true and correct copy of the foregoing pleading or paper was served using the Court's CM/ECF system with electronic notification of such filing to the following counsel of record:

Benjamin G. Chew, Esq.
PATTON BOGGS LLP
2550 M Street, N.W.
Washington, D.C. 20037
Telephone: (202) 457-6000
Facsimile: (202) 457-6315
E-mail: bchew@pattonboggs.com

s/Robert E. Scully, Jr.
Robert E. Scully, Jr.
Virginia Bar No. 19218
Stites & Harbison PLLC
1199 North Fairfax Street, Suite 900
Alexandria, Virginia 22314
Telephone: (703) 739-4900
Fax: (703) 739-9577
rscully@stites.com
Counsel for Defendant Reset, Inc.